Secta. II-27—100,000—23-5-53.

Finance (1948) Department.

MS. SERIES.

G.O. No. 1093

Dated 24-11-1948

[Despatch Abstract.]

Pension - Counting of special pay as emoluments for pension in respect of leave under F.R.86(A) - Rulings of the Auditor General - Recorded.

P.V.Pen.Mis.3324.

Office of the Accountant General,
Madras, 16th November 1948.

To

The Secretary to the Government,
Finance Pension Department,
Madras.

Sir,

Sub:- Counting of special pay as emoluments for pension in respect of leave with allowances.

A copy of Auditor General's letter No.261-A/25-48 dated 22-7-1948 on the above mentioned subject.

Together with a copy of letter No.P.7358 dated 13-2-1948 of the Accountant General, Central Provinces and Berar referred to therein is forwarded for the information of Government.

Sd X x X

True copy

ASSISTANT ACCOUNTS OFFICER

Copy of letter No.261-A/25-48 dated 22-7-1948 from the Auditor General of India, Simla, to the Accountant General, Central Provinces and Berar.

Subject:- Counting of special pay as emoluments for pension in respect of leave with allowances.

With reference to your letter No.P.7358, dated 13th Feb. 1948 on the subject mentioned above, I have the honour to state that no kind of disability in the matter of leave salary, reckoning of service or emoluments of pension is attached to leave taken under Fundamental Rule 86. The grant of leave under Fundamental Rule 86 is not a concession and the Government servant is entitled to such leave if the necessary conditions laid down therein are fulfilled. It carries with it an extension of service and no formal sanction to the extension is required. It has therefore, been decided with the concurrence of the Ministry of Finance that the emoluments drawn during such leave should be treated as emoluments for purposes of Art.487, Civil Service Regulations in calculating pension.

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262-A/25-48.

Copy with a copy of letter No.P.7658 dated 13-2-1948 from the Accountant General, Central Provinces and Berar is forwarded to all other Accountants General and Comptrollers, the Director of Audit Defence Service and the Director of Railway Audit.

This disposes of his letter No.P.R.Mis.98 dated 7-4-48*
P.R.1/87 dated 26-4-48(a)
Pen.Mis.4894 dated 25-3-48

* to A.G. Bombay only.
(a) to A.G., W..Bengal only
To A.G. Madras only

Copy of letter No.P.7358 dated 13-2-48 from the Accountant General, Central Provinces & Berar, to the Auditor General of India.

Sub:- Counting of special pay as emoluments for pension in respect of leave with allowances.

I have the honour to refer the following case for a ruling as to whether special pay that was being drawn by an officer immediately before his proceeding on leave under F.R.86 can count as emoluments for pension in respect of that leave.

2. Mr.H.N.K.Stewart, I.P., was holding the post of Superintendent, Government Railway Police with effect from the 12th April 1944 carrying a special pay at Rs.150/- p.m. immediately before he proceeded on leave under F.R.86 (a) for 5 months and 20 days from the 1st July 1946, the date on which he attained the age of superannuation. The Head of the Department has certified that had Mr.Stewart not proceeded on leave, he would have drawn the special pay for the period of leave as prescribed in your letter No.193-A 62-36 dated 17-4-1936 and has included the special pay in respect of the period of leave granted under F.R.86 (a).

3. On the other hand it can be argued that the grant of refused leave under F.R.86 is itself in the nature of a special

concession to officers on superannuation and the formal extension of service which it automatically carries is prima facie to regularise an anomaly which would otherwise result. No doubt, such extended service qualifies for pension but the usual certificate for counting special pay as emoluments furnished in respect of periods of leavewith allowances cannot xxxx cover such post-superannuation leave, for the certificate if furnished, would be opposed to facts in as much as the officer would have retired in the ordinary course but for the grant of leave.

As the view taken by the Provincial Government does not appear to me to be free from doubt. I refer this case for a ruling.

TRUE COPY

AG

GOVERNMENT OF MADRAS.

Abstract.

PENSION - Counting of special pay as emoluments for pension in respect of leave under F.R.86(a) - Rulings of the Auditor General - Recorded.

-V-V-V